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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,640	01/16/2001	G. Colby Conkwright	37865.010200	2254

22191 7590 07/12/2004

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EXAMINER

COLBERT, ELLA

ART UNIT PAPER NUMBER

3624

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/759,640

Applicant(s)

CONKWRIGHT ET AL.

Examiner

Ella Colbert

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-29 and 81 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-29 and 81 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Claims 20-29 and 81 are pending. Claims 23, 25, and 26 have been amended in this communication filed 04/08/04 entered as RCE (Request For Continued Examination).
2. The Change in Power of Attorney filed 05/06/04 has been entered.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/08/04 has been entered.

3. The claim objection to claims 25 and 26 have been overcome by Applicants' amendment to claims 25 and 26 and is hereby withdrawn.
4. The objection to the Abstract has been overcome by Applicants' amendment to the Abstract and is hereby withdrawn.
5. The 35 U.S.C. 112, second paragraph rejection of claims 23 and 26 has been overcome by the amendment to claims 23 and 26 and is hereby withdrawn.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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6. Claims 20-29 and 81 are rejected under 35 U.S.C. 101 as non-statutory. The method claims as presented do not claim a technological basis in the body of the claim. Without a claimed basis, the claim may be interpreted in an alternative as involving no more than a manipulation of an abstract idea and therefore non-statutory under 35 U.S.C. 101. In contrast, a method claim that includes in the body of the claim at least one structural/functional interrelationship which can only be computer implemented is considered to have a technological basis [See Ex parte Bowman, 61 USPQ2d 1669, 1671 (BD. Pat. App. & Inter. 2001) – used only for content and reasoning since not precedential] and also MPEP 2106. In this case a “computer processor” used for storage is not considered statutory. Suggestion for the claim: “A computer-implemented method for correlating at least one dynamic dataset, representing human behavior ..., comprising the steps of: selecting at the computer at least one subset of said datasets sharing at least one common characteristic;” in claim 20 and “A computer-implemented method for determining individual characteristics ..., comprising the steps of: selecting at the computer at least one subset of said datasets sharing at least one common characteristic;” in claim 25.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 20-29 and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 6,216,129B1) Eldering in view of Rudolf J. Freund and William J. Wilson, hereafter Freund and Wilson and further in view of (US 5,842,199) Miller et al, hereafter Miller.

With respect to claims 20 and 25, Eldering teaches, a method of correlating at least one dynamic dataset, representing human behavior, and at least one static dataset, wherein said dynamic and static datasets share at least one common characteristic and have an assumed relationship, and using such correlations to determine rule systems between the datasets, comprising the steps of: selecting at least one subset of said datasets sharing at least one common characteristic (col. 8, lines 32-42); expressing the assumed relationship between said static and dynamic datasets as a mathematical assumption (col. 8, lines 42-53 and col. 9, lines 26-38).

Eldering failed to teach, defining an error function which describes said static and dynamic datasets in terms of said mathematical assumption; performing at least one fitting procedure to calculate values that define said mathematical assumption; performing at least one fitting procedure to account for errors in the assumed relationship; and using the computer processor to store said mathematical assumption in a database as a rule system between said dynamic and static datasets.

Freund and Wilson teaches, defining an error function which describes said static and dynamic datasets in terms of said mathematical assumption (page 11, paragraph 5-page 12, paragraph 1); performing at least one fitting procedure

to calculate values that define said mathematical assumption (page 12, paragraphs 2-5); and performing at least one fitting procedure to account for errors in the assumed relationship (page 26, paragraphs 2-5 & Table 1.4).

Eldering and Freund & Wilson failed to teach, using the computer processor to store said mathematical assumption in a database as a rule system between said dynamic and static datasets.

Miller teaches, using the computer processor to store said mathematical assumption in a database as a rule system between said dynamic and static datasets (col. 8, lines 47-67, col. 9, lines 1-9, and col. 12, lines 10-22). It would have been obvious to one having ordinary skill in the art at the time the invention was made to define an error function which describes the two datasets in terms of said mathematical assumption; perform fitting procedures to account for errors in the assumed relationship; perform fitting procedures which account for errors in the definition of the common subsets and to use the computer processor to store said mathematical assumption in a database as a rule system between said dynamic and static datasets to modify in Eldering because such a modification would allow Eldering to analyze the information and to use an algorithm to perform the mathematical assumption of the datasets.

With respect to claim 25, Eldering teaches, using said processor to store said mathematical assumption and said error function in an individual-specific array in a database (col. 3, lines 3-28 —shows the correlations and col. 8, lines 1-12 shows the storage).

Eldering fails to teach, repeating this process, such that a plurality of said mathematical assumptions and said error functions are stored in said individual-specific array.

Eldering and Freund & Wilson together teaches, repeating this process, such that a plurality of said mathematical assumptions and said error functions are stored in said individual-specific array. Freund & Wilson teach, a plurality of said mathematical assumptions and said error functions on page 11, paragraph 5 –page 12, paragraphs 1-5, and page 26, paragraphs 2-5 and Table 1.4 and Eldering teaches, storage in an individual-specific array (col. 37, lines 11-67, col. 38, lines 1-66, and col. 39, lines 1-65). It would have been obvious to one having ordinary skill in the art at the time the invention was made to repeat this process, such that a plurality of said mathematical assumptions and said error functions are stored in said individual-specific array and to modify in Eldering because such a modification would allow Eldering to have an algorithm for repeating the process steps of claim 25. Other algorithms can be used for assigning advertising to groups of set top terminals or to individual terminals other than the algorithm described in col. 37, line 11- col. 38, line 66, and col. 39, lines 1-65.

With respect to claims 21 and 26, Eldering teaches, said dynamic dataset corresponds to set-top box event data (col. 3, lines 6-12, col. 5, lines 9-26, col. 8, lines 1-17, and fig. 1A (106)).

With respect to claims 22 and 27, Eldering teaches, said static dataset corresponds to demographic data (col. 12, lines 47-54).

With respect to claim 23, Eldering teaches, correlations are drawn between said set-top box event data and said demographic to determine the relationship of demographics to content viewership (col. 7, lines 4-67).

With respect to claim 28, Eldering teaches, said individual-specific array corresponds to a privacy-compliant identification number (col. 3, lines 19-22 – “unique consumer ID”), col. 8, lines 13-31, and figure 1B (106)).

With respect to claim 29, Eldering failed to teach, an IDM solution used as a means for performing at least one of said fitting procedures.

Freund & Wilson teach, an IDM solution used as a means for performing at least one of said fitting procedures (page 43, paragraphs 3-7, page 44, page 45, Table 2.2 and paragraphs 1-2, page 49, paragraphs 1-5, page 53, paragraphs 7-9, page 65, paragraph 5- page 67, and paragraphs 1-3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have an IDM solution used as a means for performing at least one of fitting procedures and to modify in Eldering because such a modification would allow Eldering to use an inverse matrix algorithm to make a prediction and per sample to update the matrix. Such examples that use an inverse matrix are currency exchange rates, network traffic data from different network elements, demographic data from multiple jurisdictions, patient data varying over time, and so on.).

With respect to claim 81, Eldering teaches, said privacy-compliant identification number is a set-top box identification number (col. 8, lines 13-31 and fig. 1B(106)).

Conclusion

.9. The prior art made of record and not relied upon is considered pertinent to Applicants' disclosure.

Barney (US 4,967,401) disclosed a matrix and an error fitting analysis.

Lawson, Catherine; Keats, J. Bert; and Montgomery, Douglas C. disclosed least-squares regression analysis.

Inquiries

.10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 703-308-7064. The examiner can normally be reached on Monday-Thursday from 6:30 am -5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1038. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

E. Colbert
July 6, 2004